

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

C.W.P. No. 11344 of 1994 (O/M).
Date of Decision : April 16, 2009.

Haryana Seeds Development Corporation Limited,
Chandigarh.

..... Petitioner.

Versus.

The Presiding Officer, Industrial Tribunal-cum-
Labour Court, Gurgaon, and another.

..... Respondents.

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH.

Present:- Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. Surender Lamba, Advocate,
for the respondent No. 2.

AUGUSTINE GEORGE MASIH, J. (ORAL).

C.M. No. 3517 of 2009.

Counsel for the parties state that the main writ petition may be heard and decided.

With the consent of counsel for the parties, the main case is taken up for final disposal.

C.W.P. No. 11344 of 1994.

An award dated 25.04.1994 (Annexure-P-16), came to be passed in favour of the respondent No. 2-workman, holding him entitled to reinstatement in service with continuity of service and full back wages. The said award was challenged by the petitioner-management before this Court through the present writ petition but as no stay was granted, the respondent

No. 2-workman was taken back in service, vide order dated 24.09.1994. The workman continued with his service and during the pendency of the writ petition, vide order dated 19.05.2004, the services of the respondent No. 2-workman have been regularised w.e.f. 01.10.2003, as per the Government policy.

In this view of the matter, the question with regard to reinstatement in service of the respondent No.2-workman have been rendered infructuous. However, counsel for the petitioner-management contends that full back wages should have been granted to the respondent No.2-workman from the date of his retrenchment as the same was held not in consonance with the provisions of the Industrial Disputes Act.

On the other hand, counsel for the respondent No. 2-workman submits that since the provisions as contained in Section 25-N of the Industrial Disputes Act have not been complied with, therefore, the respondent No.2-workman is held entitled to reinstatement in service and has been rightly granted by the Labour Court.

I have heard counsel for the parties and have gone through the records of the case. It is a matter of fact which is admitted that the respondent No. 2-workman was retrenched from service. The provisions as contained in Section 25-F of the Industrial Disputes Act were complied with but since the provisions as contained in Section 25-N of the Industrial Disputes Act were applicable to the petitioner, the same having not been complied with, the retrenchment of the respondent No. 2-workman was not in consonance with the Industrial Disputes Act. In these peculiar facts and circumstances of the case, it would be just and equitable that full back wages which have been granted to the respondent No. 2-workman by the Labour

Court, vide its impugned award dated 25.04.1994 (Annexure-P-16), be modified to read as 50% back wages from the date of his retrenchment till the date of his reinstatement. It would not be out of way to mention here that since the services of the respondent No. 2-workman have been regularised, the question of reinstatement of respondent No. 2-workman is no more in question which would require adjudication by this Court. It is made clear that due to the passing of present order, the services of the respondent No. 2-workman will not be affected in any way.

The writ petition stands disposed of in above terms.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 16, 2009.
sjks.

Whether referred to the Reporter – Yes/No.